IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4900 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SANJAYKUMAR DAYA RAJBHAR
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MR MR PRAJAPATI for Petitioner.
MR LR PUJARI, AGP for Respondents.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 10/05/2007

ORAL JUDGMENT

1) In the present petition, the petitioner has challenged his detention order dated 16.12.2006 passed by the Commissioner of Police Vadodara City in exercise of powers under section 3 (2) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter to be referred to as

"PASA") ordering preventive detention of the petitioner on the ground that such detention is necessary to prevent breach of public order.

2) In order to form an opinion that the activities of the petitioner are prejudicial to public order, the detaining authority took into consideration an isolated instance of involvement of the petitioner in breach of Bombay Prohibition Act. The petitioner was allegedly caught with 237 bottles of foreign liquor. The detaining authority has also considered the material collected by the Investigating agency while investigating into this offence.

3) It is not in dispute that this single isolated case of breach of prohibition law was the only material before the detaining authority for passing the impugned order.

4) Learned advocate Shri Prajapati for the petitioner pointed out that in case of co-detenu, by passing an order dated 8th May 2007 in Special Civil Application No.2247/2007 this Court had quashed the detention. Learned AGP, Shri Pujari is not in a position to dispute this fact.

5) Since the material taken into consideration by the detaining authority in both the cases is identical and since this detention also arises under identical circumstances, I have taken up the petition for hearing at the joint request of the learned advocates appearing for the parties.

6) In view of above development, without giving separate reasons, this petition is allowed. The order of detention dated 16.12.2006 passed by the Commissioner of Police, Vadodara City is quashed and set aside. Since the order of detention is quashed, the detenu is ordered to be released forthwith, if not required in any other case. Rule is made

absolute accordingly. Direct service is permitted.

(AKIL KURESHI, J.)

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